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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION ONE

In re N.D., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

N.D.,

Defendant and Appellant.

A153823

(Contra Costa County
Super. Ct. No. MSJ18-00128)

N.D. appeals after the juvenile court declared him a ward of the court under Welfare and Institutions Code section 602.¹ He claims substantial evidence does not support the court's finding that he committed the offense of being a minor in possession of a firearm. He also claims the court erred by denying his request to be released on home supervision after the jurisdictional hearing was continued. We are not persuaded by these contentions and thus affirm.

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise noted.

I.
FACTUAL AND PROCEDURAL
BACKGROUND

In January 2018, the Contra Costa District Attorney filed a wardship petition under section 602, subdivision (a) alleging that then 17-year-old N.D. had committed the offense of being a minor in possession of a firearm, a felony.² At the detention hearing, the juvenile court ordered that N.D. remain in custody, expressing concern that he was not enrolled in school in the Bay Area, where his family had recently moved, and his parents had not done enough to ensure “he’s not out on the streets with guns.”

A couple weeks later, the juvenile court held a contested jurisdictional hearing on the allegation against N.D. Richmond Police Officer Lane Matsui testified that while on patrol with two other officers, he noticed a parked car with its driver’s window down even though it was raining. He “could smell marijuana,” and it appeared that a person in the driver’s seat was smoking.

The police officers turned around to make contact with the car’s occupants, but before they could do so, a woman exited from the driver’s side and N.D. exited from the passenger’s side. The woman began walking away, and N.D. initially moved to follow her but took “a little stutter step, sort of deciding where to go,” and walked the other way. Officer Matsui had the impression that N.D. “was contemplating fleeing on foot or running.”

Officer Matsui said, “Hey, come here,” and noticed “a pretty big bulge” in N.D.’s jacket’s front pocket. N.D. was holding his hands as if “broadcasting that he wasn’t going to reach for anything or do anything with his hands.” The officer performed a pat search and discovered that N.D. was carrying a loaded handgun with an extended magazine, after which N.D. was arrested. A second firearm was recovered from a jacket lying on the car’s front passenger seat.

Upon questioning, N.D. told Officer Matsui that he found the gun “earlier in the day down the street. He said that . . . he saw a bum or a homeless person and that it was

² The allegation was made under Penal Code section 29610.

inside of a bag and he took it.” N.D. admitted he knew the gun was real and loaded, but he appeared “kind of confused” when the officer asked what he planned to do with it. Officer Matsui testified that he “did not believe [N.D.’s] statement that he stole [the gun] from a homeless person.”

The jurisdictional hearing was then continued because the prosecutor was going on vacation, and N.D.’s renewed request to be released on home supervision was denied. At the continued hearing, N.D., the only other witness to testify, stated that the woman in the car with him was a recent acquaintance who was taking him out to dinner to celebrate his completion of probation. He claimed that after the police drove by them, the woman pointed a gun at him, placed the gun in his jacket, and ordered him to put on the jacket. He became aware that the woman had another gun, and he testified that he believed he “probably could have been shot” if he did not do what she said.

After determining that it could not “credit his testimony,” the juvenile court rejected N.D.’s duress defense and found the jurisdictional allegation true. At the dispositional hearing, the court declared N.D. a ward of the court with no termination date and ordered him to attend the Orin Allen Youth Rehabilitation Facility for nine months. The court specified that his maximum period of confinement was two years and 307 days, reflecting credit for time already spent in custody.³

II. DISCUSSION

A. *Substantial Evidence Supports the Jurisdictional Finding.*

N.D. contends that “there was insufficient evidence to support the [juvenile] court’s finding that [he] had not met his burden to show duress.” His position is meritless.

We review the juvenile court’s finding that N.D. was in possession of a firearm for substantial evidence, which requires us to “ ‘review[] the entire record in the light most

³ N.D.’s appeal from another dispositional order entered after the juvenile court found he violated his probation is currently pending in this division. (*In re N.D.*, A155620.)

favorable to the prosecution to determine whether it contains evidence that is reasonable, credible, and of solid value, from which a rational trier of fact could find [the elements of the crime] beyond a reasonable doubt.” ’ ’ ’ (*In re George T.* (2004) 33 Cal.4th 620, 630-631.) “ ‘We also presume the existence of every fact the lower court could reasonably deduce from the evidence in support of its judgment.’ ” (*In re Daniel C.* (2011) 195 Cal.App.4th 1350, 1359.) “ ‘ ‘ ‘If the circumstances reasonably justify the trier of fact’s findings, the opinion of the reviewing court that the circumstances might also be reasonably reconciled with a contrary finding does not warrant a reversal of the judgment.’ ” ’ ’ ’ (*George T.*, at p. 631.)

N.D. does not contest that there was sufficient evidence to establish he was a minor in possession of a firearm in violation of Penal Code section 29610. Instead, he claims that evidence was lacking to support a finding beyond a reasonable doubt that he did not act under duress. But his duress defense rested on his own testimony, which the juvenile court found not credible. Moreover, even if there had been some evidence to support the conclusion he acted under duress, there was also substantial evidence that he did not, including his statement to the police that the gun was his. The claim fails.

B. N.D.’s Challenge to His Continued Detention While the Jurisdictional Hearing Was Delayed Is Moot.

N.D. also claims the juvenile court erred by refusing to release him after continuing the jurisdictional hearing. We agree with the Attorney General that this claim is moot, and we decline to exercise our discretion to consider it.

1. Additional facts.

After presenting Officer Matsui’s testimony, the prosecutor indicated that she rested subject to a possible need to present body-cam evidence and was not available to return to court until 10 days later. N.D.’s trial counsel objected, noting that his client remained in custody and arguing that the prosecutor’s vacation plans did not provide good cause for a continuance. Counsel asked that N.D. be released if the hearing was delayed. The prosecutor opposed the request for release, pointing out that N.D. “previously had a wardship for a gun case . . . in Sacramento County” and “was

terminated from his wardship successfully . . . just two weeks before this incident, and this is a high capacity magazine.”

The juvenile court found good cause for a continuance. It noted that “credibility arguments that may be raised with respect to Officer Matsui’s testimony [made it] . . . important that the same district attorney who had done this continue this.” It also observed that the continuance would be “relatively short.” Finally, it denied the request for release “for all the reasons that were stated at [the] detention hearing as well as the reasons stated here today in open court.”

2. N.D.’s challenge to the denial of his request for release while the jurisdictional hearing was continued is moot.

N.D. offers two reasons the juvenile court allegedly erred by denying his request for release. First, based on a note in the probation department’s initial case assessment that he had recently been “terminated successfully” from probation in a Sacramento County case, “petition dismissed and record sealed,” he argues that the court violated section 786, which in certain circumstances prohibits reliance on a sealed juvenile record to support detention. (See § 786, subd. (g)(1)(C).) Second, he argues that the court abused its discretion by granting a continuance based on the prosecutor’s vacation plans.

The Attorney General argues that the claim is moot because even if the juvenile court erred by not releasing N.D. on home supervision while the jurisdictional hearing was continued, N.D. “may not be provided a meaningful remedy for that error on direct appeal.” “In general, it is a court’s duty to decide ‘ “ ‘actual controversies by a judgment which can be carried into effect, and not to give opinions upon moot questions or abstract propositions, or to declare principles or rules of law which cannot affect the matter in issue in the case before it.’ ” ’ ” (*In re David B.* (2017) 12 Cal.App.5th 633, 644.) “When no effective relief can be granted, an appeal is moot and will be dismissed.” (*In re Jessica K.* (2000) 79 Cal.App.4th 1313, 1315.)

Although N.D. acknowledges he could have challenged his continued detention by filing a writ, he argues that “pursuing a writ would have extended [the] wrongful detention, compounding the error.” He suggests that this court can provide him

meaningful relief by ordering the juvenile court to reduce his maximum term of confinement “by the number of days he was wrongfully detained.” In doing so, he attempts to draw an analogy to the relief provided in *People v. Steward* (2018) 20 Cal.App.5th 407. There, the defendant was serving a prison sentence for several felony convictions when one of the convictions was reduced to a misdemeanor under Proposition 47. (*Steward*, at p. 411.) After resentencing, the defendant’s “custody credits exceed[ed] the newly imposed term of imprisonment,” and Division Five of this court held that the excess credits could be applied to reduce the duration of his postrelease community supervision (PRCS). (*Ibid.*)

As the Attorney General observes, however, N.D. already received credits against his maximum term of confinement for the additional days he spent in custody as a result of the jurisdictional hearing’s continuance. In contrast, the *Steward* defendant’s excess custody credits had not previously been credited against either his prison sentence or his PRCS term, and we agree with the Attorney General that the decision provides no support for effectively double-counting the days N.D. spent in custody due to the continuance to further reduce his maximum term of confinement. As a result, N.D. fails to show that we can order any effective relief.

We also decline N.D.’s alternative request that we exercise our “inherent discretion to resolve the issue as one capable of repetition yet evading review.” (See *In re Yvonne W.* (2008) 165 Cal.App.4th 1394, 1404.) He argues that “[t]he fact that neither the defense, the prosecution, nor the [juvenile] court appeared to know that the law prohibited relying on a sealed record to justify detention in a subsequent case demonstrates that the error is capable of repetition.” N.D. never objected below to the court’s reliance on the previous case to justify his continued detention, however, and our record lacks any official documentation to confirm that the record of the prior case was in fact sealed. As a result, we agree with the Attorney General that N.D.’s case is a “poor vehicle” for addressing the sealing issue. (See *North Coast Rivers Alliance v. Westlands Water Dist.* (2014) 227 Cal.App.4th 832, 849.)

III.
DISPOSITION

The judgment is affirmed.

Humes, P.J.

WE CONCUR:

Banke, J.

Sanchez, J.

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